

Docket 47919  
Serial No. 09/929,785

PATENT APPLICATION

**REMARKS**

This is in full and timely response to the initial Office Action on the merits dated September 29, 2004. Reconsideration and reexamination are respectfully requested in view of the foregoing amendments and the following remarks.

By the foregoing amendment, claims 1, 11, 18, and 19 have been amended. Therefore, claims 1-20 remain in this application with claims 1, 11, and 18 being independent.

**IN THE CLAIMS:**

**35 U.S.C. § 112 Rejections:**

Claims 8, 16, and 20 stand rejected under 35 U.S.C. 112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. The examiner states that the applicant has failed to clearly link and associate any corresponding structure with the "means for" phrases. Because the "means for" phrases in claims 8, 16, and 20 are identical, they will be discussed here concurrently. As the examiner did not specify which of the "means for" phrases do not have corresponding structure, all of the "means for" phrases in these claims will be discussed.

The applicant assumes that the examiner does not reject the phrase "means for inputting restaurant order information" under 35 U.S.C. 112, 2nd paragraph. Otherwise, this phrase would have also prompted a similar rejection in claims 1 and 11.

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The subject matter associated with the recited means-plus-function phrases is clearly described in the original specification, and the linkage is apparent. Corresponding structure for the phrase “means for displaying on said display a graphical representation of a plurality of table locations and a plurality of seat locations associated with each table location” is discussed in detail on pages 5-8 of the Application as originally filed. Specifically, this means plus function recitation clearly corresponds to the PLC 40 that “includes a memory having graphical representations of the table layout within the restaurant and of each individual table 49 including specific seat locations” and “may be programmed or re-programmed by restaurant management as needed” (page 5), and the transceivers 38, 56 which may communicate as discussed on pages 5-8. The PLC 40 is clearly connected to the display 26, as “the menu 48 may be displayed [on the display 26] immediately adjacent the graphical representation 49 [found in the PLC 40] of a selected table and seat location (Fig. 2)” (page 5).

The phrase “means for displaying on said display a menu of food and drink items corresponding to said plurality of product records in said database” similarly corresponds to structure discussed on pages 5-8 of the Application as originally filed. Specifically, this recitation corresponds to the PLC 40 that “includes a listing of the restaurant menu 48” and “may be programmed or re-programmed by restaurant management as needed” (page 5), and the transceivers 38, 56 which may communicate as discussed on pages 5-8. The PLC 40 is clearly connected to the display 26, as “the menu 48 [found in the PLC 40] may be displayed [on the display 26] immediately adjacent the graphical representation 49 of a selected table and seat location (Fig. 2)” (page 5). The applicant vigorously asserts that these associations would be clear and apparent to one of ordinary skill in this art.

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35 U.S.C. § 112, ¶6:

Without admitting the propriety of this rejection, the phrase “means in said host computer for” located in lines 12 and 15 of claim 1, lines 12, 15, and 18 of claim 11, line 29 of claim 18, and line 3 of claim 19 has been changed throughout to “wherein said host computer includes means for” to even more clearly invoke 35 U.S.C. 112, 6th paragraph (all line numbers referenced to claims as originally filed). Similarly, the phrase “means on said front side for” located in line 6 of claim 18 has been changed to “means for” to even more clearly invoke 35 U.S.C. 112, 6th paragraph. Even as originally written, however, the applicant urges that these claim limitations are “written as a function to be performed and [do] not recite sufficient structure, material, or acts which would preclude application of 35 U.S.C. 112, 6th paragraph,” in accordance with the *Supplemental Examination Guidelines for Determining the Applicability of 35 USC 112, 6th paragraph* (Federal Register Vol. 65, No. 120, June 21, 2000).

35 U.S.C. § 102 (e) Rejections:

Claims 1-20 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,845,263 to Camaisa, et al. According to the examiner, “Camaisa discloses a portable handheld unit (102 at the tables), a database (128), means in inventory for decrementing a respective inventory quantity (inventory terminal), means in the host computer for transmitting a signal (the system is wireless), a kitchen terminal, and a drink terminal” (9/29/2004 Office Action, page 2).

The applicant respectfully asserts his belief that the examiner does not yet fully appreciate the points of novelty as recited in claims 1, 11, and 19 as originally filed. Without admitting the

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propriety of this rejection, the applicant has amended claims 1, 11, and 19 to recite this novelty even more clearly. The applicant's system includes "means in said host computer for transmitting a signal along said wide-area computer network to a vendor computer corresponding to a respective vendor identifier when said respective inventory quantity is less than a  
5 predetermined quantity, said signal being indicative of an order for an additional quantity of said respective product." As discussed above, this claim limitation should have been examined under 35 U.S.C. 112, 6th paragraph, as it is "written as a function to be performed and does not recite sufficient structure, material, or acts which would preclude application of 35 U.S.C. 112, 6th paragraph," in accordance with the *Supplemental Examination Guidelines for Determining the*  
10 *Applicability of 35 USC 112, 6th paragraph* (Federal Register Vol. 65, No. 120, June 21, 2000).

In view of the remarks made above, it should now be clear that the signal is transmitted to a vendor computer "when said respective inventory quantity is less than a predetermined quantity". Though the applicant believes that this wording is clear and unambiguous, the word "automatically" has been added to stress that the applicant's present  
15 invention sends a signal to a vendor to reorder inventory when inventory becomes low without additional steps or assistance. This is a feature not shown, taught, or suggested in the prior art, and as such, the applicant believes that the rejections of claims 1, 11, and 19 should be withdrawn along with the rejections of claims 2-10 and 12-17 which depend therefrom and such is respectfully requested. The examiner did not address this aspect of the applicant's current  
20 invention in the 9/29/2004 Office Action, and the applicant respectfully requests that the examiner clearly cite the prior art relied upon if the examiner intends to maintain the current

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rejections. Importantly, the addition of the word "automatically" does not change the scope of the respective claims, so a new search of the prior art should not be necessary.

Further, the limitations that the applicant's data entry terminal comprises a housing, a display, and a handle as found in claims 6, 15, and 18 and also a support member as found in  
5 claims 7, 15, and 18 are neither anticipated by nor obvious in view of Camaisa or any other of the prior art. Therefore, the applicant believes that claims 6, 7, 15, and 18 are in condition for allowance along with claims 19 and 20 which depend therefrom and such is respectfully requested. The examiner also did not address these limitations in the 9/29/2004 Office Action, and the applicant respectfully requests that the examiner allow these claims or clearly cite the  
10 prior art relied upon if the current rejections are to be maintained. Again, no new matter has been added to these claims, so no new search of the prior art should be necessary.

Moreover, the limitations that the applicant's system include means for displaying a graphical representation of a plurality of table locations and a plurality of seat locations associated with each table location (claims 8, 16, and 20), means for displaying a graphical  
15 representation of a single table (claims 9 and 17), and means for displaying only the tables assigned to a particular waiter (claim 10) are neither anticipated by nor obvious in view of the prior art. The specific functions of selectively displaying all tables and seats, a single table and seats, or only selected tables and seats should be appreciated by the examiner as being key points of novelty not taught or suggested by Camaisa or any other reference whether considered singly  
20 or in combination. Since there is no suggestion in the prior art to provide these unique utilities, the applicant believes that claims 8-10, 16, 17, and 20 are in condition for allowance and such is respectfully requested. The examiner did not address these limitations in the 9/29/2004 Office

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Action, and the applicant respectfully requests that the examiner allow these claims or clearly cite the prior art relied upon if the current rejections are to be maintained. Still, no new matter has been added to these claims, so a new search of the prior art should not be necessary.

Another very distinctive and novel element of the present invention was clearly  
5 recited in claim 14 yet not addressed by the examiner. While this claim should be allowed since no basis was given for its rejection, the applicant respectfully asserts that the prior art does not teach a system in which order information includes a food selection associated with an exact seating location and wherein the food selection is also associated with a product record such that additional inventory is automatically ordered if the inventory is low. For these additional  
10 reasons, the applicant again requests that claim 14 be allowed.

As repeatedly noted above, the examiner has not yet addressed many points of novelty in the applicant's original claims. Not only are these recited limitations not present in the '263 (Camaisa) patent as would be required to support the present 35 U.S.C. § 102 (e) rejections, but these limitations are also not shown, taught, or suggested anywhere in the  
15 additionally cited prior art. As such, the applicant respectfully requests the examiner to withdraw the current 35 U.S.C. § 102 (e) rejections and allow this application. If the current rejections are to be maintained, however, the applicant respectfully requests the examiner to clearly cite the prior art relied upon. Through this response, the applicant has not altered the scope of the claims. Therefore, the examiner should not be required to spend additional time  
20 searching the prior art.

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Other References:

The applicant expressly reserves the right to traverse the examiner's conclusions about the level of skill depicted in How Computers Work, Millenium Ed. by Ron White, How Networks Work, Millenium Ed. by Frank J. Derfler, et. al., and How the Internet Works, Millenium Ed. by Preston Gralla. Since the examiner's rejections to date have not been based on these sources and no specific portions of these works have been cited, the applicant simply reserves the right to traverse these references in the future if the examiner relies thereon to support or maintain a rejection.

10 Conclusion:

This application should now be in condition for allowance and such is respectfully requested. If the examiner has any suggestions that would place this application in even better condition for allowance, he is invited to contact the applicant's representative at the telephone number listed below.

15 However, in the event the examiner does not agree that this application is yet in condition for allowance, the applicant strongly urges that the next office action should not be final considering that the examiner has not yet supported his 35 U.S.C. 102(e) rejections with any specific reference to the prior art and the applicant, therefore, has not had sufficient opportunity to make a complete or satisfactory amendment of his claims or complete remarks  
20 regarding the same.

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Respectfully Submitted,



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